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7 **UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

8 NORTHWEST LABORERS-EMPLOYERS  
9 HEALTH & SECURITY TRUST, WESTERN  
10 WASHINGTON LABORERS-EMPLOYERS  
11 PENSION TRUST, NORTHWEST LABORERS-  
EMPLOYERS TRAINING TRUST, and  
WASHINGTON AND NORTHERN IDAHO  
DISTRICT COUNCIL OF LABORERS and its  
Affiliated Union Locals

12 **Plaintiffs**

13 v.

14 BARRY CIVIL CONSTRUCTION, INC.

15 **Defendant**

NO.

COMPLAINT FOR BREACH OF  
COLLECTIVE BARGAINING  
AGREEMENT

16 COME NOW PLAINTIFFS, and for their cause of action, allege as follows:

17 1. Plaintiffs Northwest Laborers-Employers Health & Security Trust, Western  
18 Washington Laborers-Employers Pension Trust, and Northwest Laborers-Employers Training  
19 Trust (Trusts) are joint labor-management employee benefit trusts created pursuant to §  
20 302(c)(5) of the Labor-Management Relations Act (the Act), 29 U.S.C. § 186(c)(5) and bring  
21 this action in accordance with §§ 502(d)(1), 502(a)(3) and 515 of the Employee Retirement  
22 Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq.

COMPLAINT FOR BREACH OF  
COLLECTIVE BARGAINING AGREEMENT—1

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1           2.       Plaintiff Washington and Northern Idaho District Council of Laborers and its  
2 affiliated Union Locals (Union) is a labor organization that has its principal office located at  
3 3909 164<sup>th</sup> Street SW, Lynnwood, Washington.

4           3.       Defendant Barry Civil Construction, Inc. (Employer) is engaged in business  
5 within the jurisdiction of this Court, and such business affects commerce within the meaning of §  
6 301(a) of the Act, 29 U.S.C. § 185(a).

7           4.       Jurisdiction is conferred on this Court by § 301(a) of the Act, 29 U.S.C. § 185(a)  
8 and §§ 502(a)(3) and 502(e)(2) of ERISA, 29 U.S.C. § 1132(a)(3) and § 1132(e)(2).

9           5.       At all times material the Employer and the Union were parties to a collective  
10 bargaining agreement (Labor Agreement) and Trust agreements, material parts of which are set  
11 forth in Exhibits A and B to this Complaint. Plaintiff Trusts are third-party beneficiaries to the  
12 Labor Agreement.

13           6.       The Employer has failed to abide by the terms and conditions set forth in the  
14 Labor Agreement and Trust Agreements and is and continues to be delinquent in the payment of  
15 fringe benefit contributions in the known amount of \$36,588.64 covering the period June 2011  
16 through February 2016.

17           7.       Under the terms of the Labor Agreement and Trust Agreements to which the  
18 Employer is bound, the Employer is also obligated to pay all liquidated damages in the amount  
19 of fifteen percent (15%) of the delinquent contributions owing, interest computed at the rate of  
20 fifteen percent (15%) per annum, and costs and expenses incurred, including reasonable attorney  
21 fees.

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1 As a result of its delinquent reporting and payments to the Trusts, the Employer  
2 owes liquidated damages in the known amount of \$16,059.07 and interest in the known amount  
3 of \$17,739.29.

4 8. The total known amount owing as of the filing of this Complaint is \$70,387.00,  
5 all of which is due and payable under the terms of the Labor Agreement and Trust Agreements.  
6 The Employer's failure to pay is also a violation of § 515 of ERISA, 29 U.S.C. § 1145.

7 9. On July 6, 2016, the Employer stipulated to waive any potential statute of  
8 limitations defense to claims arising from and/or relating to amounts identified in the parties'  
9 settlement agreement executed December 7, 2011. See Exhibit C. The December 7, 2011  
10 settlement agreement related to amounts then known to be owing for December 2010 through  
11 September 2011.

12 10. On January 17, 2017, the parties executed a second settlement agreement, which  
13 referenced the Employer's July 6, 2016 stipulation waiving any potential statute of limitations,  
14 and established all amounts then known to be owing.

15 Further on January 17, 2017, the Employer stipulated to judgment, which  
16 stipulation includes contributions of \$36,588.64, liquidated damages of \$16,059.07, and interest  
17 of \$17,739.29, as described in paragraphs 6 through 9 above, post-judgment interest at fifteen  
18 percent (15%) per annum from the date of delinquency, auditor fees of \$966.40, costs of  
19 \$500.00, and attorney fees of \$2,000.00.

20 WHEREFORE, Plaintiffs pray for the following relief:

- 21 (a) Judgment against Barry Civil Construction, Inc. covering the period June 2011  
22 through February 2016 in the amount of \$36,588.64 representing fringe benefit  
contributions, \$16,059.07 representing liquidated damages, and \$17,739.29  
representing interest;

- 1 (b) All costs and attorney fees incurred; and  
2 (c) Such other relief as the Court deems just and equitable.

3 DATED November 10, 2017

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5 s/ Mary L. Stoll  
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